

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

LEMORRIS MONTAE MCCOLLUM,)	
)	
Petitioner,)	
)	
v.)	1:17-cr-155-1
)	1:21-cv-315
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On September 29, 2023, the United States Magistrate Judge's Recommendation ("Recommendation") was filed and notice was served on the parties pursuant to 28 U.S.C. § 636. (Docs. 50, 51.) No objections were filed within the time limits prescribed by Section 636.

The record reflects that the Recommendation was served by mail to Petitioner's last known address at Bennettsville FCI, 696 Muckerman Road, Bennettsville, South Carolina, but returned as undeliverable because Petitioner is no longer at this address, vacant, and unable to forward. (See Doc. 52.) This court has no obligation to locate Petitioner to provide actual notice; instead, it is the duty of a litigant to keep this court informed of a current address. LR 11.1(b). Because Petitioner has not provided the court with an address within 63 days of the date of the last return of mail, the court finds the case should

be dismissed without prejudice for failure to prosecute. See LR 11.1(b).

IT IS THEREFORE ORDERED that Petitioner's Motion to Vacate, Set Aside, or Correct Sentence, (Doc. 39), be, and the same is hereby, **DISMISSED WITHOUT PREJUDICE** pursuant to Local Rule 11.1(b) for failure to prosecute.

IT IS FURTHER ORDERED that the Government's Motion to Dismiss, (Doc. 46), is **DENIED AS MOOT**. The court further finds there is no substantial showing of the denial of a constitutional right affecting the conviction nor a debatable procedural ruling, therefore a certificate of appealability is not issued.

A Judgment dismissing this action will be filed contemporaneously herewith.

This the 2nd day of February, 2024.


United States District Judge